

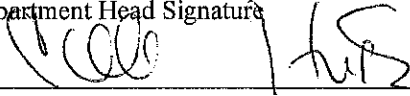
EDWARD P. MANGANO  
County Executive



CARNELL T. FOSKEY  
County Attorney

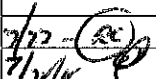
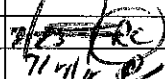
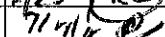
312-15

**Staff Summary**  
**FOR EXECUTIVE SESSION ONLY**

Subject <b>Settlement Resolution</b> for Ashley and Jason Kitchens v. County of Nassau v. SMG f/k/s Spectator et al, Index No. 121-cv-05881
Department County Attorney
Department Head Name Carnell T. Foskey, County Attorney
Department Head Signature 
Date July 22, 2015

Department Contact/Representative for Leg Meeting: Deputy County Attorney Lisa LoCurto 571-3033

Proposed Legislative Action					
	To	Date	Approval	Info	Other
	Assgn Comm				
	Rules Comm				
	Full Leg				

Internal Approvals			
Date & Init.	Approval	Date & Init.	Approval
	Dept. Head		Leg. Affairs
7/22/15 	Budget	7/23/15 	County Atty.
	Deputy C.E.	7/21/15 	County Exec.

**Narrative**

**Purpose:**

This resolution is for settlement of the state court action in the matter of Ashley and Jason Kitchens v. County of Nassau v. SMG f/k/s Spectator et al Index No. 12-cv-05881. The total settlement is for \$1,000,000.00 with the County paying \$500,000.00 (Settlement amount is \$500,000.00 + 2% cost of financing at \$10,000.00 = total amount of settlement will be \$510,000.00).

**Discussion:**

Plaintiffs Kitchens filed federal Court diversity action claiming personal injuries to Ashley Kitchens due to her falling down the concrete steps in the Nassau Veterans Coliseum on April 1, 2012. This matter arose out of the 2012 litigation. The matter settled prior to the start of trial on June 9, 2015

**Proposed settlement amount and impact on funding:**

The County has agreed to pay settlement amount in the sum of \$500,000.00.

**Recommendation:**

Approve settlement.

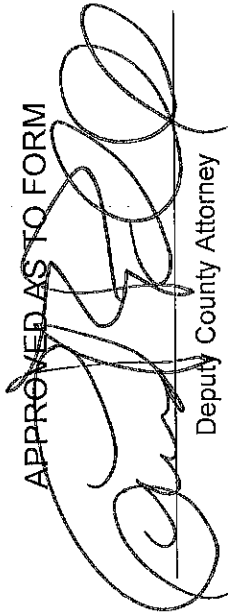
2015 JUL 28 P 4:24

CLERK OF THE COUNTY OF NASSAU  
RECEIVED  
JUL 28 2015

**RESOLUTION NO.**

**- 2015**

A RESOLUTION authorizing the County Attorney to compromise and settle the action entitled *Ashley Kitchens and Jason Kitchens v. Nassau County, et. al., Index No. 2:12-CV-05881*, Eastern District of New York, pursuant to the County Law, the County Government Law of Nassau County and the Nassau County Administrative Code.

APPROVED AS TO FORM  
  
Deputy County Attorney

2015 JUL 28 P 4:24

CLERK OF THE COUNTY OF NASSAU  
JUL 28 2015

WHEREAS, Ashley Kitchens and Jason Kitchens (the "Plaintiffs") commenced an action against County of Nassau, et al. (the "County") entitled *Ashley Kitchens and Jason Kitchens v. Nassau County, et. al., Index No. 2:12-CV-05881*, Eastern District of New York, alleging certain violations of the Plaintiffs' rights, and the County has agreed to make payment to Plaintiffs in the amount of \$500,000.00 inclusive of attorneys' fees in full satisfaction of the litigation plus interest; and

WHEREAS, the County Attorney has caused an investigation and analysis to be made of the said action and as a result thereof recommends that it be settled in the amount set forth above; now therefore, be it

RESOLVED, that the County Attorney be and is hereby authorized and directed to settle the said action in the amount as indicated above, provided that, if any payment arising from said action is to be made from the proceeds of a borrowing, that a bond ordinance to finance such settlement is adopted by this Legislature and any borrowing pursuant to such bond ordinance is

approved by the Nassau County Interim Finance Authority, if such approval is required; and be it further

RESOLVED, that the County Treasurer be and is hereby authorized to pay a maximum of \$500,000.00 by check or checks payable as directed by the County Attorney, said check or checks to be delivered to the County Attorney and thereupon delivered to the attorneys for Plaintiffs upon receipt of a Settlement Agreement and Limited Release; and be it further

RESOLVED, that it is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. Section 0101 *et seq.* and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that this settlement is a "Type II" Action within the meaning of Section 617.5(c)(29) of 6 N.Y.C.R.R. and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

EDWARD P. MANGANO  
County Executive



CARNELL T. FOSKEY  
County Attorney

**Inter-Departmental Memo  
FOR EXECUTIVE SESSION ONLY**

**To:** Clerk of the Legislature  
**From:** Office of the County Attorney  
**Date:** June 17, 2015  
**Re:** RESOLUTION – ORIG. DEPT. – Office of the County Attorney

A RESOLUTION authorizing the County Attorney to compromise and settle the action entitled *Ashley Kitchens and Jason Kitchens v. Nassau County, et. al.*, Index No. 2:12-CV-05881, Eastern District of New York, pursuant to the County Law, the County Government Law of Nassau County and the Nassau County Administrative Code.

The above-described document attached hereto is forwarded for your review and approval and subsequent transmittal to the County Legislature for inclusion upon their calendar.

CARNELL T. FOSKEY  
County Attorney

A handwritten signature in black ink, appearing to read "Gerald R. Podlesak", is written over the printed name and title of the Deputy County Attorney.

By: Gerald R. Podlesak  
Deputy County Attorney  
Appeals and Opinion Bureau

And: James LaRusso  
Law Assistant Temp

Attachments